

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Mary Rios,**

Plaintiff,

**v.**

**San Francisco Pineapple LLC**, a  
Washington Limited Liability  
Company; **Pineapple Hospitality  
Company**, a Washington  
Corporation;

Defendants,

**Case No.**

**Complaint For Damages And  
Injunctive Relief For  
Violations Of:** Americans With  
Disabilities Act; Unruh Civil  
Rights Act

Plaintiff Mary Rios complains of San Francisco Pineapple LLC, a Washington Limited Liability Company; Pineapple Hospitality Company, a Washington Corporation, ("Defendants"), and allege as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. She is substantially limited in her ability to walk. She is a paraplegic. She uses a wheelchair for mobility.

2. Defendants San Francisco Pineapple LLC, a Washington Limited

1 Liability Company owns the Staypineapple, an Elegant Hotel, Union Square  
2 located at 580 Geary St., San Francisco, California, currently and at all times  
3 relevant to this complaint. Defendant Pineapple Hospitality Company, a  
4 Washington Corporation operates the Hotel currently and at all times relevant  
5 to this complaint.

6 3. Plaintiff does not know the true names of Defendants, their business  
7 capacities, their ownership connection to the property and business, or their  
8 relative responsibilities in causing the access violations herein complained of,  
9 and alleges a joint venture and common enterprise by all such Defendants.  
10 Plaintiff is informed and believes that each of the Defendants herein, is  
11 responsible in some capacity for the events herein alleged, or is a necessary  
12 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
13 the true names, capacities, connections, and responsibilities of other  
14 Defendants are ascertained.

15  
16 **JURISDICTION:**

17 4. The Court has subject matter jurisdiction over the action pursuant to 28  
18 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
19 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

20 5. Pursuant to supplemental jurisdiction, an attendant and related cause  
21 of action, arising from the same nucleus of operative facts and arising out of  
22 the same transactions, is also brought under California's Unruh Civil Rights  
23 Act, which act expressly incorporates the Americans with Disabilities Act.

24 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
25 founded on the fact that the real property which is the subject of this action is  
26 located in this district and that Plaintiff's cause of action arose in this district.

**PRELIMINARY STATEMENT**

7. This is a lawsuit challenging the reservation policies and practices of a place of lodging. Plaintiff does not know if any physical or architectural barriers exist at the hotel and, therefore, is not claiming that the hotel has violated any construction-related accessibility standard. Instead, this is about the lack of information provided on the hotel's reservation website that would permit plaintiff to determine if there are rooms that would work for him.

8. After decades of research and findings, Congress found that there was a "serious and pervasive social problem" in America: the "discriminatory effects" of communication barriers to persons with disability. The data was clear and embarrassing. Persons with disabilities were unable to "fully participate in all aspects of society," occupying "an inferior status in our society," often for no other reason than businesses, including hotels and motels, failed to provide information to disabled travelers. Thus, Congress decided "to invoke the sweep of congressional authority" and issue a "national mandate for the elimination of discrimination against individuals with disabilities," and to finally ensure that persons with disabilities have "equality of opportunity, full participation, independent living" and self-sufficiency.

9. As part of that effort, Congress passed detailed and comprehensive regulations about the design of hotels and motels. But, as importantly, Congress recognized that the physical accessibility of a hotel or motel means little if the 61 million adults living in America with disabilities are unable to determine which hotels/motels are accessible and to reserve them. Thus, there is a legal mandate to provide a certain level of information to disabled travelers.

10. But despite the rules and regulations regarding reservation procedures, a 2019 industry article noted that: "the hospitality sector has largely overlooked the importance of promoting accessible features to travelers."

1 11. These issues are of paramount important. Persons with severe  
2 disabilities have modified their own residences to accommodate their unique  
3 needs and to ameliorate their physical limitations. But persons with disabilities  
4 are never more vulnerable than when leaving their own residences and having  
5 to travel and stay at unknown places of lodging. They must be able to ascertain  
6 whether those places work for them.

7  
8 **FACTUAL ALLEGATIONS:**

9 12. Plaintiff planned on making a trip in October to the San Francisco,  
10 California, area.

11 13. She chose the Staypineapple, an Elegant Hotel, Union Square, located  
12 at 580 Geary St., San Francisco, California, because this hotel was at a  
13 desirable price and location.

14 14. Due to Plaintiff's condition, she is unable to, or seriously challenged in  
15 her ability to, stand, ambulate, reach objects, transfer from her chair to other  
16 equipment, and maneuver around fixed objects.

17 15. Thus, Plaintiff needs an accessible guestroom and she needs to be given  
18 information about accessible features in hotel rooms so that she can  
19 confidently book those rooms and travel independently and safely.

20 16. On September 17, 2020, while sitting bodily in California, Plaintiff  
21 went to the Staypineapple, an Elegant Hotel, Union Square reservation  
22 website at <https://www.staypineapple.com/union-square-san-francisco>  
23 seeking to book an accessible room at the location.

24 17. This website reservation system is owned and operated by the  
25 Defendants and permits guests to book rooms at the Staypineapple Hotel.

26 18. Plaintiff found that there was insufficient information about the  
27 accessible features in the "accessible rooms" at the Hotel to permit her to  
28 assess independently whether a given hotel room would work for her.

1       19. For example, Plaintiff needs to know that the bed has a compliant clear  
2 space next to it so she can safely transfer from her wheelchair to the bed. Here  
3 the Hotel website provides no information about the accessibility of the clear  
4 space next to the bed.

5       20. As another example, Plaintiff has had tremendous difficulty using desks  
6 and tables that did not provide knee and toe clearance for a wheelchair user to  
7 pull up and under the table/desk. Here, the Hotel reservation website provides  
8 no information about the accessibility of the table/desk in the accessible  
9 guestroom. This leaves Plaintiff unsure she will be able to use the table/desk in  
10 the Hotel room, which is important to her.

11       21. As another example, Plaintiff needs doorways that are at least 32 inches  
12 wide so she can get her wheelchair through. Without this feature, Plaintiff risks  
13 getting stuck in a doorway, or being prevented from passing through the  
14 doorway at all. The website does not mention that the hotel room has this  
15 feature.

16       22. Plaintiff does not need an exhaustive list of accessibility features.  
17 Plaintiff does not need an accessibility survey to determine if a room works for  
18 her. Plaintiff, like the vast majority of wheelchair users, simply needs a handful  
19 of features to be identified and described with a modest level of detail:

- 20       • For the doors, Plaintiff simply needs to know if she can get into the hotel  
21 room and into the bathroom. This is a problem that has created  
22 tremendous problems for the Plaintiff in the past. A simple statement  
23 that the hotel room entrance and interior doors provide at least 32  
24 inches of clearance is enough to provide Plaintiff this critical piece of  
25 information about whether she can fit her wheelchair into the hotel  
26 rooms.
- 27       • For the beds themselves, the only thing Plaintiff needs to know (and the  
28 only thing regulated by the ADA Standards) is whether she can actually

1 get to (and into) the bed, i.e., that there is at least 30 inches width on the  
2 side of the bed so her wheelchair can get up next to the bed for transfer.  
3 This is critical information because Plaintiff cannot walk and needs to  
4 pull her wheelchair alongside the bed.

- 5 • For the desk where Plaintiff will eat and work, Plaintiff simply needs to  
6 know that it has sufficient knee and toe clearance so that she can use it.  
7 A simple statement like “the desk provides knee and toe clearance that  
8 is at least 27 inches high, 30 inches wide, and runs at least 17 inches  
9 deep” is more than sufficient. Because Plaintiff is confined to a  
10 wheelchair, she needs to know this information to determine if the desk  
11 is accessible to and useable by her.
- 12 • For the restroom toilet, Plaintiff only needs to know two things that  
13 determine if she can transfer to and use the toilet; (1) that the toilet seat  
14 height is between 17-19 inches (as required by the ADA Standards) and  
15 (2) that it has the two required grab bars to facilitate transfer.
- 16 • For the restroom sink, the Plaintiff two things that will determine  
17 whether she can use the sink from her wheelchair: (1) can she safely get  
18 her knees under the toilet? To wit: does the sink provide the knee  
19 clearance (27 inches high, 30 inches wide, 17 inches deep) and is any  
20 plumbing under the sink wrapped with insulation to protect against  
21 burning contact? The second thing is whether the lavatory mirror is  
22 mounted at a lowered height so that wheelchair users can see it. A  
23 simple statement like: “the lavatory sink provides knee clearance of at  
24 least 30 inches wide, 27 inches tall and 17 inches deep, all of the under-  
25 sink plumbing is wrapped, and the lowest reflective edge of the mirror is  
26 no more than 40 inches high” would suffice.
- 27 • Finally, for the shower, Plaintiff needs to know only a handful of things:  
28 (1) what type of shower it is (transfer, standard roll-in, or alternate roll-

1 in), (2) whether it has an in-shower seat; (3) that there are grab bars  
2 mounted on the walls; (4) that there is a detachable hand-held shower  
3 wand for washing herself and (5) that the wall mounted accessories and  
4 equipment are all within 48 inches height.

5 23. This small list of items are the bare necessities that Plaintiff must know  
6 to make an independent assessment of whether the “accessible” hotel room  
7 works for her. These things comprise the basics of what information is  
8 reasonably necessary for Plaintiff (or any wheelchair user) to assess  
9 independently whether a given hotel or guest room meets his or her  
10 accessibility needs.

11 24. Other accessibility requirements such as slopes of surfaces, whether the  
12 hand-held shower wand has a non-positive shut off valve, the temperature  
13 regulator, the tensile strength and rotational design of grab bars, and so many  
14 more minute and technical requirements under the ADA are beyond what is a  
15 reasonable level of detail and Plaintiff does not expect or demand that such  
16 information is provided.

17 25. But because the Defendants have failed to identify and describe the core  
18 accessibility features in enough detail to reasonably permit individuals with  
19 disabilities to assess independently whether a given hotel or guest room meets  
20 her accessibility needs, the Defendants fail to comply with its ADA obligations  
21 and the result is that the Plaintiff is unable to engage in an online booking of  
22 the hotel room with any confidence or knowledge about whether the room will  
23 actually work for her due to her disability.

24 26. This lack of information created difficulty for the Plaintiff and the idea  
25 of trying to book this room -- essentially ignorant about its accessibility --  
26 caused difficulty and discomfort for the Plaintiff and deterred her from  
27 booking a room at the Hotel

28 27. Plaintiff travels frequently and extensively, not only for non-litigation

1 reasons but also because she is an ADA tester and actively engaged in finding  
 2 law breaking businesses and hauling them before the courts to be penalized  
 3 and forced to comply with the law.

4 28. As she has in the past, Plaintiff will continue to travel to the San  
 5 Francisco area on a regular and ongoing basis and will patronize this Hotel  
 6 once it has been represented to her that the Defendant has changed its policies  
 7 to comply with the law and to determine if the Hotel is physically accessible as  
 8 well as complying with required reservation procedures. Plaintiff will,  
 9 therefore, be discriminated against again, i.e., be denied her lawfully entitled  
 10 access, unless and until the Defendant is forced to comply with the law.

11 29. Plaintiff has reason and motivation to use the Defendant's Hotel  
 12 reservation system and to stay at the Defendant's Hotel in the future. Among  
 13 her reasons and motivations are to assess these policies and facilities for  
 14 compliance with the ADA and to see her lawsuit through to successful  
 15 conclusion that will redound to the benefit of herself and all other similarly  
 16 situated. Thus, Plaintiff routinely revisits and uses the facilities and  
 17 accommodations of places she has sued to confirm compliance and to enjoy  
 18 standing to effectuate the relief promised by the ADA.

19  
 20 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**

21 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
 22 Defendants.) (42 U.S.C. section 12101, et seq.)

23 30. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 24 again herein, the allegations contained in all prior paragraphs of this  
 25 complaint.

26 31. Under the ADA, it is an act of discrimination to fail to make reasonable  
 27 modifications in policies, practices, or procedures when such modifications  
 28 are necessary to afford goods, services, facilities, privileges advantages or



1 accommodations to person with disabilities unless the entity can demonstrate  
 2 that taking such steps would fundamentally alter the nature of the those goods,  
 3 services, facilities, privileges advantages or accommodations. See 42 U.S.C. §  
 4 12182(B)(2)(A)(ii).

5 32. Specifically, with respect to reservations by places of lodging, a  
 6 defendant must ensure that its reservation system, including reservations  
 7 made by “any means,” including by third parties, shall:

- 8 a. Ensure that individuals with disabilities can make  
 9 reservations for accessible guest rooms during the same  
 10 hours and in the same manner as individuals who do not  
 11 need accessible rooms;
- 12 b. Identify and describe accessible features in the hotels and  
 13 guest rooms offered through its reservations service in  
 14 enough detail to reasonably permit individuals with  
 15 disabilities to assess independently whether a given hotel  
 16 or guest room meets his or her accessibility needs; and
- 17 c. Reserve, upon request, accessible guest rooms or specific  
 18 types of guest rooms and ensure that the guest rooms  
 19 requested are blocked and removed from all reservations  
 20 systems.

21 *See* 28 C.F.R. § 36.302(e).

22 33. Here, the defendant failed to modify its reservation policies and  
 23 procedures to ensure that it identified and described accessible features in the  
 24 hotels and guest rooms in enough detail to reasonably permit individuals with  
 25 disabilities to assess independently whether a given hotel or guest room meets  
 26 his or her accessibility needs and failed to ensure that individuals with  
 27 disabilities can make reservations for accessible guest rooms during the same  
 28 hours and in the same manner as individuals who do not need accessible

rooms.

**II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ. Code § 51-53.)

34. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia, that persons with disabilities are entitled to full and equal accommodations, advantages, facilities, privileges, or services in all business establishment of every kind whatsoever within the jurisdiction of the State of California. Cal. Civ. Code § 51(b).

35. The Unruh Act provides that a violation of the ADA is a violation of the Unruh Act. Cal. Civ. Code, § 51(f).

36. Defendants’ acts and omissions, as herein alleged, have violated the Unruh Act by, inter alia, failing to comply with the ADA with respect to its reservation policies and practices.

37. Because the violation of the Unruh Civil Rights Act resulted in difficulty and discomfort for the plaintiff, the defendants are also each responsible for statutory damages, i.e., a civil penalty. *See* Civ. Code § 52(a).

**PRAYER:**

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1. For injunctive relief, compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

1        2. Damages under the Unruh Civil Rights Act, which provides for actual  
2 damages and a statutory minimum of \$4,000 for each offense.

3        3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
4 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

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6  
7 Dated: January 11, 2021

CENTER FOR DISABILITY ACCESS

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11 By: \_\_\_\_\_  
12 Russell Handy, Esq.  
13 Attorneys for Plaintiff  
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